

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 27, 2005

D046456 The Retirement Group v. Linsco/Private Ledger

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issued immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

D045848 In re Fuentes on Habeas Corpus

The order is reversed. The stay issued on March 4, 2005, is vacated when the opinion is final as to this court. CERTIFIED FOR PUBLICATION McConnell, P.J.; We Concur: Benke, J., Aaron, J.

D045518 People v. Smith

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

D046558 Commonwealth Land Title Insurance Company et al. v. Norton

Orders affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D045557 Bivens v. Gallery Corporation

The petition for rehearing is denied.

D047573 Samantha B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Samantha B. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 28, 2005

D045615 Baver v. Home Depot USA, Inc.

The appeal is dismissed. Irion, J.; We Concur: McConnell, P.J., Benke, J.

D046356 In re Shaputis on Habeas Corpus

Shaputis's petition for writ of habeas corpus is granted. The BPT is ordered to vacate the denial of parole and to conduct a new parole suitability hearing for Shaputis, and to issue a new decision within 45 days.

CERTIFIED FOR PUBLICATION. McDonald, J.; I Concur: McIntyre, J.,

I Dissent (by opinion): Benke, Acting P.J.

D047157 In re Williams on Habeas Corpus

The trial court's judgment is modified to strike the five-year sentence enhancement imposed for Petitioner's prior juvenile adjudication. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting this modification. O'Rourke, J.;

We Concur: McDonald, Acting P.J., Irion, J.

D045064 People v. Nava et al.

The judgments against Rojo and Nava are affirmed. Huffman, Acting P.J., I concur: O'Rourke, J., I dissent: McDonald, J.

D047507 Valley Radiology Consultants Medical Group Inc., et al. v. Superior Court of San Diego County/Venisse et al.

The petition is denied.

D046321 People v. Shearer

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D046541 People v. Simmons

The judgment is reversed. The matter is remanded for an evidentiary hearing on Simmon's request to withdraw his guilty plea. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

D047581 Tait v. The Superior Court of San Diego County/San Diego County Sheriff's Department

Let a writ of mandate issue directing the superior court to vacate its order of October 13, 2005, denying petitioner's *Pitchess* motion and enter a new order consistent with this opinion. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24, subd. (b)(3)). O'Rourke, J.;

We Concur: McDonald, Acting P.J., Irion, J.

D047595 Eddie W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Eddie W. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 28, 2005 (Continued)

D047745 Maricela T. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The notices of intent to file writ petition and petitions for extraordinary writ, received on December 22, 2005, are untimely. The case is dismissed.

D047567 In re the Marriage of Kreun

The appeal filed November 15, 2005 is dismissed because appellant did not timely deposit costs for preparing the record on appeal.

D047351 In re Stroud on Habeas Corpus

The petition is denied.

D047677 In re Tiwana on Habeas Corpus

The petition is denied. The clerk is directed to send a copy of the petition and this order to Tiwana's trial attorney.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 29, 2005

D044714 People v. Hayes

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D047729 Catalina Restaurant Group, Inc. v. Superior Court of San Diego County/Campbell

The petition is denied.

D045487 Smith et al. v. Wells Fargo Bank, N.A. et al.

The judgment is reversed and the matter is remanded with directions that the trial court vacate its order granting Bank's motion for summary adjudication and motion for a no-merit determination and enter a new order denying those motions. Smith is to recover his costs on appeal. McDonald, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D044922 People v. Gill

The petition for rehearing is denied.

D047646 Gomez et al. v. The Drapery Shop, Inc.

Because appellant did not timely pay the filing fee, the appeal is dismissed.

D045855 One Broadway Plaza LLC v. Rodermund et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

D046493 One Broadway Plaza LLC v. Citizens for Responsible Planning

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

D046080 One Broadway Plaza et al. v. Citizens for Responsible Planning

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

D046348 Friese, as Trustee v. Superior Court of San Diego County/Moores et al.

The opinion filed December 2, 2005, is modified. The petition for rehearing is denied. There is a change in the judgment.

D047738 Preciado v. Superior Court of San Diego County/Hernandez et al.

The petition is denied.

D047588 Bergan v. Hall

Pursuant to California Rules of Court, rule 8, the appeal filed November 16, 2005, is dismissed for appellant's failure to timely designate the record.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
December 30, 2005

D047370 In re Turner on Habeas Corpus

The petition is denied.

D047726 U.S. Financial v. Miller

The petition is denied.

D047422 County of San Diego et al. v. Superior Court of San Diego County/Sharp Healthcare et al.

The petition is denied.

D047384 In re Bridgewater on Habeas Corpus

The petition is denied.

D045438 North Coast Women's Care Medical Group Inc., et al. v. Superior Court of San Diego County/Benitez

Rehearing is granted in the above case. The court will advise the parties as to appropriate supplemental briefing in due course. The case will be submitted after supplemental briefing has been requested and received.